

**BOARD OF ASSESSMENT APPEALS,  
STATE OF COLORADO**

1313 Sherman Street, Room 315  
Denver, Colorado 80203

**Docket No.: 50779**

Petitioner:

**CASTLE ROCK DEVELOPMENT COMPANY,**

v.

Respondent:

**DOUGLAS COUNTY BOARD OF EQUALIZATION.**

**ORDER**

**THIS MATTER** was heard by the Board of Assessment Appeals on December 16 and December 17, 2009, Karen E. Hart and Lyle D. Hansen presiding. Petitioner was represented by Richard G. Olona, Esq. Respondent was represented by Robert D. Clark, Esq. Petitioner is protesting the 2008 actual value of the subject property.

**PROPERTY DESCRIPTION:**

Subject property is described as follows:

**332 lots and parcels located in and around The Meadows Subdivision  
(Douglas County Schedules: See Addendum)**

Respondent identified a total of 332 lots and parcels in the appeal as follows: 148 single-family residential vacant lots ranging in size from 0.092 to 0.346 acres and one 2.66 acre open space tract in The Meadows Filing 16 Subdivision; 5 future development tracts zoned for either Town Center mixed use or single-family residential use ranging in size from 9.051 to 25.854 acres and one 0.19 acre platted single-family lot in The Meadows Filing 18 Subdivision; 117 vacant single-family residential lots ranging in size from 0.10 to 0.29 acres, 6 vacant townhome lots ranging in size from 0.267 to 1.052 acres and in planned number of units from 4 to 24 units, 43 raw subdivision land parcels ranging in size from 0.257 to 2.269 acres and zoned for either Town Center mixed use or single-family residential use, and 4 future development lots ranging in size from 8.78 to 14.84 acres and zoned for either Town Center mixed use or single-family residential use in The Meadows Filing 20 Subdivision; and 3 acreage tracts ranging in size from 2.157 to 33.65 acres and 4 PD commercial

zoned acreage tracts ranging in size from 0.99 to 61.0 acres all of which are not located in The Meadows Subdivision but are a part of The Meadows Master Plan.

Petitioner identified a total of 332 lots as follows: 23 developed lots, 126 platted and engineered lots, and 7 agricultural land lots in The Meadows Filing 16 Subdivision; 1 platted and engineered lot and 5 raw land lots in The Meadows Filing 18 Subdivision; and 122 developed lots, 44 platted and engineered lots, and 4 raw land lots in The Meadows Filing 20 Subdivision.

In The Meadows Filing 16, Petitioner contends that 23 lots are fully developed into residential lots, and that 126 are not fully developed but are considered as platted and engineered lots. Petitioner contends that the 126 platted and engineered lots should be valued at 25% of the developed lot value. Respondent contends that 23 lots are fully developed into residential lots and should be valued at the developed lot value and that 125 lots are partially developed and should be valued at 25% of the developed lot value.

In The Meadows Filing 20, Petitioner contends that 122 lots are fully developed into residential lots, and that 44 are not fully developed but are considered as platted and engineered lots. Petitioner contends that the 44 platted and engineered lots should be valued at 10% of the developed lot value. Respondent contends that 123 lots are fully developed into residential lots and should be valued at the developed lot value and that 43 lots have not been improved with infrastructure and should be valued as raw subdivision land.

Based on the market approach and present worth analysis, Petitioner presented a total indicated value of \$6,996,089.00 for the subject property.

To derive a value of an individual developed lot, Petitioner presented four bulk developed lot sales ranging in sales price per lot from \$50,000.00 to \$70,000.00 and in average lot size from 0.149 to 0.192 acres. The bulk lot sales included a range of total lots in each sale from 10 to 50 lots. Two of the four sales were located over 50 miles from the subject lots in a different county in Colorado. After adjustments were made for differences in location and size, the sales ranged from \$42,500.00 to \$53,504.00 per lot. Petitioner concluded an individual developed lot value of \$50,000.00.

In the present worth analysis in Filing 16, Petitioner used an adjusted selling price per lot of \$50,000.00. Petitioner applied the Developmental Cost Deduction Method resulting in an adjusted selling price for the platted and engineered lots at 25% of \$50,000.00 or \$12,500.00. For both the developed lots and the platted and engineered lots, Petitioner concluded an absorption period of 12 years, a discount rate of 12.5%, and a present worth of \$1 factor of 6.053476. Petitioner concluded a present worth value for the developed lots of \$25,223.00 per lot and a present worth value for the platted and engineered lot of \$6,305.70.

In the present worth analysis in Filing 20, Petitioner used an adjusted selling price per lot of \$50,000.00. Petitioner applied the Developmental Cost Deduction Method resulting in an adjusted selling price for the platted and engineered lots at 10% of \$50,000.00 or \$5,000.00. For both the developed lots and the platted and engineered lots, Petitioner concluded an absorption period of 13 years, a discount rate of 12.5%, and a present worth of \$1 factor of 6.269756. Petitioner concluded a

present worth value for the developed lots of \$24,114.00 and a present worth value for the platted and engineered lots of \$2,411.00.

To derive a value of the raw land, Petitioner presented two comparable sales ranging in sales price from \$1,545,000.00 to \$7,569,500.00 or from \$51,500.00 to \$72,784.00 per acre and in size from 30.00 acres to 104.00 acres. After adjustments were made for differences in location, the sales ranged from \$43,775.00 to \$61,866.00 per acre. Petitioner concluded an individual value per acre of \$50,000.00.

In the present worth analysis in Filings 18 and 20 of the raw land, Petitioner applied an adjusted selling price per acre of \$50,000.00. Petitioner concluded an absorption period of 15 years, a discount rate of 12.5%, and a present worth of \$1 factor of 6.632894. Petitioner concluded a present worth value of an acre of raw land at \$22,110.00.

Petitioner contends seven parcels qualify for agricultural classification. On these parcels the 2007 Assessor value was established at an agricultural classification, therefore Petitioner indicated value to the 2007 level. Petitioner describes the seven lots as located in The Meadows Filing 16; Respondent shows these parcels located outside The Meadows Subdivision. Petitioner contends that these seven lots should be classified as agricultural based upon existing fencing and land use. Petitioner indicated that the Douglas County Assessor had these seven lots classified and valued as agricultural in 2007.

Petitioner is requesting a 2008 actual value of \$6,996,089.00 for the subject property.

Based on the market approach and present worth analysis, Respondent presented an indicated value of \$19,096,845.00 for the subject property.

To derive the value of an individual developed lot, Respondent presented 11 comparable sales ranging in sales price from \$58,000.00 to \$125,000.00 and in size from 0.116 to 0.489 acres. No adjustments were made, however, Respondent utilized lot sales that were larger and smaller than the mean lot size of the subject lots. Respondent utilized lots that were located in The Meadows Subdivision and in the City of Castle Rock. Respondent concluded a value of \$67,000.00 per lot.

Respondent also utilized the allocation method of land value. Respondent concluded a median improved sale price of \$329,100.00. The lot value conclusion of \$67,000.00 represented a factor of 20.3% of the improved sale price. Respondent concluded 20.3% to be in the low end of the typical allocation of land value.

Respondent applied the present worth analysis for 88 partially finished lots in Filing 16. Respondent applied an adjusted selling price per lot of \$67,000.00. Respondent stated that site grading along with water and sewer lines were in place as of January 1, 2008 and therefore valued the lots as having 25% of infrastructure complete resulting in an unadjusted sale price less development cost at \$16,750.00. Respondent concluded an absorption period of 6 years and a discount rate of 12.5%. Respondent concluded a present worth value for these partially developed lots of \$11,317.00 per lot.

Respondent applied the present worth analysis for 23 finished lots in Filing 16. These lots had paved roads, curbs, sidewalks, and utilities installed and were valued as being 100% complete. Respondent applied an adjusted selling price per lot of \$67,000.00, a concluded absorption rate of 6 years, and a discount rate of 12.5%. Respondent concluded a present worth value for these fully finished lots of \$45,267.00 per lot.

In applying the present worth analysis for 37 lots in Filing 16, Respondent indicated that these lots were larger in size than most of the lots in The Meadows Filing 16. Respondent concluded a value per lot of \$85,000.00 based upon five individual lot sales in The Meadows Filing 6. Respondent stated that site grading along with water and sewer lines were in place as of January 1, 2008 and therefore valued the lots as having 25% of infrastructure complete resulting in an unadjusted sale price less development cost at \$21,250.00. Respondent concluded an absorption period of 6 years and a discount rate of 12.5%. Respondent concluded a present worth value for the partially developed larger lots of \$14,357.00 per lot.

To derive a value of an individual 2.66 acre open space tract in Filing 16, Respondent presented seven comparable sales of vacant raw land ranging in sales price from \$150,000.00 to \$7,512,450.00 or from \$7,251.00 to \$49,815.00 per acre and in size from 5.0 to 617.795 acres. No adjustments were accomplished on the comparable sales. Respondent concluded an individual value per acre of \$12,000.00, resulting in a value for the individual parcel of \$31,920.00. Respondent then applied a 50% discount to derive a final value of \$15,960.00.

To derive a value of five future development tracts in The Meadows Filing 18, Respondent presented five comparable sales of vacant raw land ranging in sales price from \$1,545,000.00 to \$14,500,000.00 or from \$42,524.00 to \$110,900.00 per acre and in size from 30.0 to 130.758 acres. No adjustments were accomplished on the comparable sales. Respondent concluded an individual value per acre of \$40,000.00.

To derive a value of an individual platted single-family residential lot in The Meadows Filing 18 subdivision, Respondent utilized the \$40,000.00 per acre raw land value conclusion and derived a value per lot of \$6,502.00. The calculation was: \$40,000.00 per acre multiplied by 134.609 acres and divided by 828 lots in the subdivision.

Respondent applied the present worth analysis for 117 finished lots in Filing 20. Respondent applied an adjusted selling price per lot of \$67,000.00, a concluded absorption rate of 6 years, and a discount rate of 12.5%. Respondent concluded a present worth value for these fully finished lots of \$45,268.00 per lot.

To derive a value of six multi-family lots in The Meadows Filing 20 Subdivision, Respondent presented two townhome projects in Douglas County where the developer of the lots had completed the infrastructure for the townhome lots and then sold the lots to builders. The first sale involved six lots that sold for \$210,300.00 or \$35,050.00 per lot. The second sale involved eight lots that sold for \$381,300.00 or \$47,662.00 per lot. Respondent concluded an individual value per lot in the lower end of the range or \$35,000.00. Respondent also utilized the allocation method of land value by analyzing the mean and median sale prices from two condominium projects in Douglas County. Respondent concluded a median improved sale price range of \$180,000.00 to

\$210,050.00. The lot value conclusion of \$35,000.00 represents a factor of 19.5% of the low end of improved sale price. Respondent applied the present worth analysis for the six multi-family lots using an adjusted selling price per unit of \$35,000.00, a concluded absorption rate of 6 years, and a discount rate of 12.5%. Respondent concluded a present worth value for these multi-family lots of \$23,648.00 per unit.

To derive a value of four future development acreage lots in The Meadows Filing 20 Subdivision, where the zoning is Town Center mixed use or single-family residential, Respondent applied a value indication of \$40,000.00 per acre. This value is supported by five comparable vacant raw land sales concluded for future development tracts in The Meadows Filing 18 subdivision.

To derive a value of 43 future development acreage lots in The Meadows Filing 20 Phase 2 Subdivision, where the zoning is Town Center mixed use or single-family residential, Respondent applied a value indication of \$40,000.00 per acre. This value is supported by five comparable vacant raw land sales concluded for future development tracts in The Meadows Filing 18 subdivision.

To derive a value of three metes and bounds acreage tracts located at the intersection of Wolfensbeger Road and Coachline Road, Respondent presented seven comparable sales of vacant raw land ranging in sales price from \$150,000.00 to \$7,512,450.00 or from \$7,251.00 to \$49,815.00 per acre and in size from 5.0 to 617.795 acres. No adjustments were accomplished on the comparable sales. Respondent concluded an individual value per acre of \$12,000.00.

To derive a value of three of the four metes and bounds acreage tracts located in the interior of the circle formed by Meadows Boulevard and zoned PD commercial or industrial, Respondent applied a value of \$12,000.00 per acre, based upon the previously applied seven comparable sales of vacant raw land.

To derive a value of one of the four metes and bounds acreage tracts located in the circle formed by Meadows Boulevard, with good frontage and planned for commercial or industrial development use, Respondent utilized four commercial land sales ranging in sales price from \$1,965,300.00 to \$5,609,400.00 or \$2.40 to \$3.80 per square foot and in size from 709,157 to 1,825,120 square feet. After adjustments, the sales ranged from \$2.04 to \$3.04 per square foot. Respondent concluded value at the lower end of the adjusted sale price range or \$2.04 per square foot.

Respondent assigned an actual value of \$21,470,624.00 to the subject property for tax year 2008, but is recommending a reduction to \$18,201,278.00.

Sufficient probative evidence and testimony was presented to prove that the subject property was incorrectly valued for tax year 2008. However, the Board was convinced that Respondent's recommended value reduction of \$18,201,278.00 was correct.

The Board relied on Respondent's descriptions of the various lots and parcels comprising the subject property, including the degree of development of the various lots. Respondent's witness testified that physical inspection of the lots in the subject was accomplished by representatives from the Douglas County Assessor's office on a periodic basis to determine the level of lot improvement

completion. Respondent also presented documentation in the form of aerial photographs to further support its conclusion of the degree of lot finish in each filing.

The Board agreed with Respondent's valuation approaches and value conclusions on the subject properties. The Board was convinced Respondent's present worth analyses were correctly applied and accurately reflected values for the subject property.

Petitioner concluded raw subdivision land value at \$50,000.00 per acre. Respondent concluded raw subdivision land value at \$40,000.00 per acre. Petitioner's witness during testimony concurred with Respondent's raw subdivision land value of \$40,000.00 per acre.

The Board agreed with Respondent's concluded developed lot values. Respondent's use of individual lot sales to support individual lot values was more appropriate than Petitioner's use of bulk lot sales to derive the value of an individual lot.

The Board relied upon Respondent's conclusion of absorption rates. Respondent presented testimony and documentation to support a six-year absorption for the subject single-family residential lots. Respondent's Exhibit E, pages 1 to 7, documented the number of lots sold in The Meadows Filing 16 between July 1, 2004 and June 30, 2006 totaling 340 lots. The Board disagreed with Petitioner who included multi-family residential lots along with single-family residential lots in the total lots sold. The Board concluded that multi-family residential lots should be applied in a separate absorption analysis for that category of present worth analysis.

Both Petitioner and Respondent agreed upon a discount rate of 12.5%.

The Board found that agriculture classification for portions of the subject is not supported. According to the Colorado Revised Statutes, agricultural land is defined as, "[a] parcel of land, whether located in an incorporated or unincorporated area and regardless of the uses for which such land is zoned, that was used the previous two years and presently is used as a farm or ranch, as defined in subsections (3.5) and (13.5) of this section . . . ." Section 39-1-102(1.6)(a)(I), C.R.S. A ranch is defined as "a parcel of land which is used for grazing livestock for the primary purpose of obtaining a monetary profit." Section 39-1-102(13.5), C.R.S.

Petitioner presented evidence of a First Amendment To Livestock Grazing Lease that was entered into on December 20, 1998 and a Second Amendment entered into on June 1, 2001 between Castle Rock Development Company and Hendersons Bar UI Ranch Company. Petitioner's witness testified that fencing existed on portions of the subject. When development occurred, the fencing was removed to accommodate the development activity. The fences were then replaced when development was completed. Petitioner's witness testified that Petitioner utilized areas of the subject for horse grazing.

Respondent's witness indicated that The Meadows Filings 18 and 20, Phases 1 and 2 subdivisions were recorded in 2005 and 2006. In prior years, the parent parcels were classified as agricultural. However, after the plat was filed, the new accounts were re-classified as vacant land. This vacant land classification has remained since that change. The filings had been inspected every year by Respondent's witness. Respondent's witness concluded that no grazing could have

occurred without fencing in place. New fencing was first observed in April of 2009 on Filings 18 and 20 and in August of 2008 on the metes and bounds acreage located near Meadows Boulevard. Respondent's witness performed a final inspection on Filing 18 on June 22, 2009 and observed no agricultural use; Respondent first noticed grazing activity on April 3, 2009 in Filing 20 and on August 4, 2008 in the metes and bounds acreage located near Meadows Boulevard. Respondent utilized aerial photos to support their conclusion that no grazing occurred during the relevant time period. The Board found that the seven parcels where Petitioner requested agricultural classification were not used the previous two years as a farm or ranch.

The Board concluded that the acreage tracts located outside The Meadows Subdivision do not qualify for agricultural classification; the Board agreed with Respondent's recommended values for these parcels which were based upon comparable land sales.

**ORDER:**

Respondent is ordered to reduce the 2008 actual value of the subject property to \$18,208,278.00 as detailed in the Addendum.

The Douglas County Assessor is directed to change his/her records accordingly.

**APPEAL:**

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-five days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

**DATED and MAILED** this 16<sup>th</sup> day of February 2010.

**BOARD OF ASSESSMENT APPEALS**

*Karen E Hart*

Karen E. Hart

*Lyle D. Hansen*

Lyle D. Hansen

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

*Heather Flannery*  
Heather Flannery



**Addendum:**

| <b>Schedule Nos.</b> | <b>Description</b>  | <b>Respondent's Assigned Value</b> | <b>Respondent's Indicated Value</b> | <b>Board's Concluded Value</b> |
|----------------------|---|------------------------------------|-------------------------------------|--------------------------------|
| R0462584 +87         | 88 partially finished lots in Filing 16   | \$945,736.00                       | \$995,896.00                        | \$945,736.00                   |
| R0458494 +22         | 23 finished lots in Filing 16   | \$1,041,095.00                     | \$1,041,141.00                      | \$1,041,095.00                 |
| R0462932 +36         | 37 larger, partially finished lots in Filing 16   | \$531,209.00                       | \$531,209.00                        | \$531,209.00                   |
| R0461773 +4          | 5 future development tracts in Filing 18, zoned TC or R-SF  | \$3,602,800.00                     | \$3,602,800.00                      | \$3,602,800.00                 |
| R0462348             | Individual platted single-family lot in Filing 18   | \$6,445.00                         | \$6,502.00                          | \$6,445.00                     |
| R0460826 +116        | 117 finished lots in Filing 20  | \$5,296,005.00                     | \$5,296,356.00                      | \$5,296,005.00                 |
| R0460992 +3          | 4 future development tracts in Filing 20, zoned TC or R-SF  | \$1,764,270.00                     | \$1,764,270.00                      | \$1,764,270.00                 |
| R0466619 +42         | 43 future development tracts in Filing 20, zoned TC or R-SF   | \$861,338.00                       | \$861,338.00                        | \$861,338.00                   |
| R0460836 +5          | 6 multi-family lots in Filing 20  | \$384,710.00                       | \$1,229,663.00                      | \$384,710.00                   |
| R0331817 +2          | 3 metes and bounds acreage tracts at the intersection of Wolfensberger Road and Coachline Road      | \$508,992.00                       | \$508,992.00                        | \$508,992.00                   |
| R0435615 +3          | 4 metes and bounds acreage tracts located in the interior of the circle formed by Meadows Boulevard | \$6,512,064.00                     | \$3,242,718.00                      | \$3,242,718.00                 |
| R0458826             | 2.66 acre open space tract in Filing 16   | \$15,960.00                        | \$15,960.00                         | \$15,960.00                    |
| <b>TOTAL</b>         | <b>332 total parcels</b>  | <b>\$21,470,624.00</b>             | <b>\$19,096,845.00</b>              | <b>\$18,201,278.00</b>         |